

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on 7/6/2009.
2. Claims 4, 16, 20 and 33 have been amended. Claims 34-35 were previously canceled.
3. The rejection under 35 U.S.C. 101 has been withdrawn.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 11-22 and 27-33 rejected under 35 U.S.C. 103(a) as being unpatentable over Nicolas (US-2004/0252816) in view of LaMedica, Jr. (US-7,024,161 hereinafter, LaMedica).

Regarding claim 1, Nicolas teaches a method for profiling characteristics of a mobile device, the method comprising:

transmitting test data to the mobile device over a mobile communications network for output by the mobile device; (Page 1 [0020-0022] the test data is mapped to the “software programme” and the “survey questions” because the software provides the structure/ability to display the question, with the questions being directed to “a question or a given subject” Page 1 [0002])

providing query data to a user interface defining queries for display by the user interface; (Page 1 [0021])

receiving response data from the user interface defining a response to the query; (Page 1 [0021] and Page 2 [0034]) and

storing the response data in a database. (Page 1 [0021], Page 3 [0041] and Pages 3-4 [0052])

Nicolas teaches that the “survey questions” can be directed to a “question or given subject”, but differs from the claimed invention by not explicitly reciting that the queries concern the expected output of the test data by the mobile device.

In an analogous art, LaMedica teaches a modular wireless device testing set and method (Abstract) that includes capturing the output of a display of a wireless device and comparing the captured output with the expected output. (Col. 12 line 38 through Col. 13 line 24, specifically Col. 12 lines 38-46 and Fig. 7) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to be motivated to implement the surveying method of Nicolas after modifying it to incorporate the ability to question the expected output of a wireless device of LaMedica since it enables remote testing of devices with feedback to a central authority. (LaMedica Col. 2 lines 27-42)

Regarding claim 2, Nicolas in view of LaMedica teaches wherein the test data is transmitted to the mobile device using a dedicated data communications link. (Nicolas Page 1 [0020] “when the telephone is activated and connected to the network” and “special programme to be downloaded beforehand”)

Regarding claim 3, Nicolas in view of LaMedica teaches wherein the test data is transmitted to the mobile device using a data messaging service. (Nicolas Page 2 [0031] “SMS”)

Regarding claim 4, Nicolas in view of LaMedica teaches the limitations of claim 1 above and that test data is transmitted to the mobile device and can be displayed on the user interface when an ideal time is determined. (Nicolas Page 1 [0014]) Nicolas in view of LaMedica differs from the claimed invention by not explicitly reciting wherein the test data is transmitted to the mobile device simultaneously to the query data being provided to the user interface. However, it is well within the scope of one of ordinary skill to recognize that the ideal moment for providing the query data to the user interface can be at the time of arrival of the test data since it enables an early warning to the survey institute as to whether a replacement for someone declining is warranted. (Nicolas Page 2 [0028] and Pages 2-3 [0038-0039])

Regarding claim 5, Nicolas in view of LaMedica teaches wherein respective queries concern respective items of test data. (Nicolas Page 2 [0032-0033])

Regarding claim 6, Nicolas in view of LaMedica teaches that questions are presented with the corresponding answers for the survey (Nicolas Page 2 [0029]) and

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that the questions inherently have an order when more than one question is being asked. (Nicolas Page 2 [0034])

Regarding claim 11, Nicolas in view of LaMedica teaches wherein output of at least some items of test data comprises transmission of data over the mobile communications network. (Nicolas Page 2 [0031] “sample survey data (DS) which can be downloaded by different means, such as SMS”)

Regarding claim 12, Nicolas in view of LaMedica teaches wherein the response data comprises affirmative or negative responses to respective queries. (Nicolas Page 1 [0021] “yes/no/do not know”)

Regarding claim 13, Nicolas in view of LaMedica teaches wherein the response data comprises values for respective queries. (Nicolas Page 1 [0021] “digit between 1 and 5 for example”)

Regarding claim 14, Nicolas in view of LaMedica teaches wherein the response data comprises only affirmative responses, negative responses and values. (Nicolas Page 1 [0021])

Regarding claim 15, Nicolas in view of LaMedica teaches a method of profiling the characteristics of plural mobile devices by carrying out the method of claim 1 for each of mobile device. (See citations above for claim 1 and Nicolas Page 1 [0009-0011] and Page 2 [0027])

Regarding claim 16, Nicolas in view of LaMedica teaches a computer programmed with computer software adapted to carry out the method of claim 1. (LaMedica Fig. 7, Nicolas Page 1 [0020-0022] and Fig. 1)

Regarding claim 17, Nicolas teaches an apparatus (Fig. 1 [IS]) for profiling characteristics of a mobile device, the apparatus comprising:

a network interface for transmitting test data to the mobile device over a mobile communications network for output by the mobile device; (Page 2 [0026])

a processor for providing query data to a user interface for display by the user interface (Page 2 [0026-0027]) and for receiving response data defining a response to the query from the user interface; (Page 1 [0021] and Page 2 [0034]) and

a database for storing the response data. (Page 1 [0021], Page 3 [0041] and Pages 3-4 [0052])

Nicolas teaches that the “survey questions” can be directed to a “question or given subject”, but differs from the claimed invention by not explicitly reciting that the queries concern the expected output of the test data by the mobile device.

In an analogous art, LaMedica teaches a modular wireless device testing set and method (Abstract) that includes capturing the output of a display of a wireless device and comparing the captured output with the expected output. (Col. 12 line 38 through Col. 13 line 24, specifically Col. 12 lines 38-46 and Fig. 7) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to be motivated to implement the surveying method of Nicolas after modifying it to incorporate the ability to question the expected output of a wireless device of LaMedica since it enables remote testing of devices with feedback to a central authority. (LaMedica Col. 2 lines 27-42)

Regarding claim 18, the limitations of claim 18 are rejected as being the same reasons set forth above in claim 2.

Regarding claim 19, the limitations of claim 19 are rejected as being the same reasons set forth above in claim 3.

Regarding claim 20, the limitations of claim 20 are rejected as being the same reasons set forth above in claim 4.

Regarding claim 21, the limitations of claim 21 are rejected as being the same reasons set forth above in claim 5.

Regarding claim 22, the limitations of claim 22 are rejected as being the same reasons set forth above in claim 6.

Regarding claim 27, the limitations of claim 27 are rejected as being the same reasons set forth above in claim 11.

Regarding claim 28, the limitations of claim 28 are rejected as being the same reasons set forth above in claim 12.

Regarding claim 29, the limitations of claim 29 are rejected as being the same reasons set forth above in claim 13.

Regarding claim 30, the limitations of claim 30 are rejected as being the same reasons set forth above in claim 14.

Regarding claim 31, the limitations of claim 31 are rejected as being the same reasons set forth above in claim 15.

Regarding claim 32, Nicolas in view of LaMedica teaches a computer server comprising the apparatus of claim 17. (Nicolas Fig. 1 [IS & OP] and LaMedica Fig. 7)

Regarding claim 33, Nicolas in view of LaMedica teaches a computer server for profiling the characteristics of a mobile device by providing a query page to a user

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interface defining queries concerning the output of test data by a mobile device, at the same time as transmitting the test data to the mobile device over a mobile communications network. (Nicolas Page 3 [0046-0050] and LaMedica Fig. 7 and Col. 12 line 38 through Col. 13 line 44)

7. Claims 7-10 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicolas in view of LaMedica as applied to claims 1 and 17 above, and further in view of Nakamura (US-5,943,617).

Regarding claim 7, Nicolas in view of LaMedica teaches the limitations of claim 1 above, but differs from the claimed invention by not explicitly reciting the respective items of test data test individual attributes of the mobile device.

In an analogous art, Nakamura teaches a radio channel test system for a mobile telecommunications network that includes items of test data test individual attributes of the mobile device. (Col. 2 lines 26-41) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have been motivated to implement the mobile phone surveying method of Nicolas in view of LaMedica after modifying it to incorporate the ability to test individual attributes of a mobile device of Nakamura since the testing of a wireless network utilizes the same basic principles of conducting surveys (polling a wide variety of customers/devices within the network and receiving feedback); with only the subject/reason of the survey differing.

Regarding claim 8, Nicolas in view of LaMedica and Nakamura teaches at least some items of test data test characteristics of the display of the mobile device. (LaMedica Fig. 7, Col. 12 lines 38-46 and Nakamura Col. 4 lines 55-65)

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Regarding claim 9, Nicolas in view of LaMedica and Nakamura teaches output of at least some items of test data comprises display of the test data. (LaMedica Fig. 7, Col. 12 lines 38-46 and Nakamura Col. 2 lines 42-53)

Regarding claim 10, Nicolas in view of LaMedica and Nakamura teaches at least some of the items of test data test communication characteristics of the mobile device. (LaMedica 12 line 57 through Col. 13 line 44 and Nakamura Col. 7 lines 8-13)

Regarding claims 23-26, the limitations of claims 23-26 are rejected as being the same reasons set forth above respectively in claims 7-10.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW SAMS whose telephone number is (571)272-8099. The examiner can normally be reached on M-F 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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/MATTHEW SAMS/  
Examiner, Art Unit 2617